Calendar No. 327

102D CONGRESS *1st Session* | SENATE | REPORT 102-220

AUTHORIZING A TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN LAND TO THE SECRETARY OF THE INTERIOR, AND FOR OTHER PURPOSES

NOVEMBER 19 (legislative day, NOVEMBER 13), 1991.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 452]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 452) to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, beginning on line 3, strike section 1 in its entirety and redesignate subsequent sections accordingly.

2. On page 3, line 13, strike "map described in section (1)(a)," and insert in lieu thereof, "map entitled 'Ekberg-Copper Spur Ranch Land Exchange—Proposed', dated September 1989,".

3. On page 3, line 16, strike "law" and insert in lieu thereof, "laws".

4. On page 3, line 21, strike "720" and insert in lieu thereof, "560".

5. On page 4, lines 3 through 5, strike "the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives" and insert in lieu thereof, "the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives".

6. On page 5, line 15, strike "expenses" and insert in lieu thereof, "expense."

59-010

S313-42

PURPOSE OF THE MEASURE

The purpose of S. 452, as ordered reported, is to transfer approximately 427 acres of land in Pennington County, South Dakota to the Secretary of Agriculture as part of the Black Hills National Forest, and to transfer approximately 560 acres of land in Routt County, Colorado to Charles Ekberg.

BACKGROUND AND NEED

S. 452 authorizes a land exchange between the Department of Agriculture and an individual, Charles Ekberg. Under the terms of the bill, Charles Ekberg would transfer a 427-acre inholding in the Black Hills National Forest in Pennington County, South Dakota to the Forest Service. Acquisition of these lands would protect wildlife habitat, simplify administration of range resources, preserve riparian resources, and eliminate a problem with property boundaries and lower maintenance costs. In exchange, the Secretary of Agriculture would convey to Mr. Ekberg 560 acres of the 1,560 Copper Spur Ranch in Routt County, Colorado. The owners of the ranch have declared bankruptcy and the property has been foreclosed by the Farmers' Home Administration.

LEGISLATIVE HISTORY

S. 452 was introduced by Senators Daschle and Wirth on February 20, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 452 on October 1, 1991. Similar legislation was introduced last Congress, but no further action was taken.

At the business meeting on October 30, 1991, the Committee on Energy and Natural Resources ordered S. 452, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on October 30, 1991, by a unanimous vote of a quorum present, recommends that the Senate pass S. 452, if amended as described herein.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford [1]	
Mr. Bradley [1]	
Mr. Bingaman	
Mr. Wirth	
Mr. Conrad	
Mr. Akaka [1]	
Mr. Fowler [1]	
Mr. Shelby [1]	
Mr. Wellstone [1]	
Mr. Wallop	
Mr. Hatfield	

Mr. Domenici
Mr. Murkowski
Mr. Nickles [1]
Mr. Burns
Mr. Craig
Mr. Seymour [1]
Mr. Garn

[1] Indicates voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 452, the Committee adopted several technical and conforming amendments. Three of these amendments reflect a change in administrative jurisdiction that has already taken place with respect to a portion of the lands described in the bill as introduced. Section 1 of the bill as introduced would have directed the Secretary of Agriculture to transfer to the Secretary of the Interior approximately 840 acres of the 1,560-acre Copper Spur Ranch. In February 1991, the Secretary of Agriculture, through the Farmers Home Administration, transferred administrative jurisdiction of 1,000 acres of the Copper Spur Ranch to the Bureau of Land Management. These amendments reflect this transfer by deleting section 1 and authorizing the transfer of the remaining 560, rather than 720, acres to Charles Ekberg.

Another amendment ensures that the map will be filed with the appropriate Committees of the House and Senate. The remaining amendments are technical.

SECTION-BY-SECTION ANALYSIS

Section 1 authorizes the transfer of title to approximately 427 acres of land located in Pennington County, South Dakota and owned by Charles Ekberg to the Black Hills National Forest to be administered by the Secretary of Agriculture.

Paragraph (2) provides that, upon the receipt of title to the land described in paragraph (1), the Secretary of Agriculture shall convey to Mr. Ekberg all right, title, and interest in approximately 560 acres of the Copper Spur Ranch in Routt County, Colorado.

Subsection (b) contains standard language concerning the filing of maps and legal descriptions, and the administration of the area.

Subsection (c) provides for the reservation of conservation easements granted to the State of Colorado by the United States in 1988, and for the retention of public access easements granted to the United States in 1989. The subsection also provides for the Bureau of Land Management and Mr. Ekberg to study, reach agreement on, and construct alternate access routes through the Copper Spur Ranch.

Subsection (d) provides for cash equalization payments for the lands to be exchanged under this Act without regard to the 25 percent limitation contained in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

Subsection (e) requires that the exchange be completed within 1 year of the enactment of this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 6, 1991.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 452, a bill to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources on October 30, 1991. We estimate that enactment of S. 452 would result in no additional costs to the federal government. Enactment of this bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

S. 452 would direct the Forest Service (FS) to accept title to about 427 acres of private land in South Dakota in exchange for about 560 acres of land in Colorado currently held by the federal government. The Farmers Home Administration currently holds the federal lands to be used in the exchange, and these lands are unlikely to be sold. Certain conservation and access easements on the land conveyed into private ownership would be preserved. The bill would authorize the Bureau of Land Management (BLM) to cooperate in a feasibility study for the construction of alternative access routes on these lands. Private interests would bear the cost of constructing any such alternative routes.

Based on information provided by the FS and BLM, CBO estimates enactment of S. 452 would not result in significant additional costs to the federal government, and would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 452. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 452, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 13, 1991, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture, the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 452. These reports had not been received at the time the report on S. 452 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service and the Bureau of Land Management at the Subcommittee hearing follows:

STATEMENT OF MICHAEL J. PENFOLD, ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear here today to present the Department of the Interior's views on S. 452, a bill which would authorize certain land transfers in the States of South Dakota and Colorado. A section-by-section analysis is attached to this statement.

We would not object to enactment of S. 452 if amended as we suggest.

Section 1 of this bill would, among other things, direct the Secretary of Agriculture to transfer to the administrative jurisdiction of the Secretary of the Interior, without reimbursement, approximately 840 acres of land located in Routt County, Colorado. The land to be conveyed was part of the Copper Spur Ranch, which, until earlier this year, totaled 1,560 acres.

Under existing authority, the Secretary of Agriculture, through the Farmers Home Administration, transferred administrative jurisdiction of 1,000 acres of the Copper Spur Ranch to the Bureau of Land Management (BLM) on February 12, 1991. The 1,000 acres included the 840 acres specified in Section 1 of this bill and 160 acres of critical deer and elk winter range lands adjacent to the 840-acre tract.

Thus, Section 1 of S. 452 should be deleted from the bill and section 2(a)(2) changed to reflect that the remainder of the ranch is now 560 acres, not 720 acres.

The rest of the bill concerns an exchange of lands by the Department of Agriculture.

If the bill is enacted, we would want to ensure that the conservation easement granted to the Colorado Division of Wildlife and the access easement granted to the BLM for the benefit of the United States and the public are not adversely affected. The BLM will cooperate with the new landowner to adjust access easements to facilitate management of the ranch and, at the same time, maintain appropriate legal and physical general public access to surrounding public lands.

Enactment of S. 452 would have no known impact under the pay-as-you-go provisions of the Budget Enforcement Act of 1990.

This concludes my prepared statement. I will be pleased to answer your questions.

SECTION-BY-SECTION ANALYSIS

S. 452, A BILL To authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes

Sec. 1. Administrative Transfer to the Secretary of the Interior

This section would authorize the Secretary of Agriculture to transfer 840 acres of the Copper Spur Ranch in Colorado to the administrative jurisdiction of the Secretary of the Interior. It would also direct the Secretary of the Interior to file a map of the property with appropriate committees of the Congress, and specify that the map and legal description of such lands shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

Section 1(c) would make the lands transferred to the Secretary of the Interior subject to a certain conservation easement granted to the Colorado Division of Wildlife.

Sec. 2. Ekberg-Copper Spur Land Exchange

Section 2 would authorize the Secretary of Agriculture to accept title to approximately 427 acres of land in South Dakota, to become part of the Black Hills National Forest. Upon receipt of title to the such land, the Secretary of Agriculture would be directed to convey to the owner of that land all right, title, and interest of the United States in 720 acres of land in Colorado described as the "Copper Spur Ranch—portion to Ekberg". The section would also include language relating to preparation and filing of a map of such tract and that the map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Section 2(c) would specify easements to which the 720-acre conveyance would be subject and specify that the Bureau of Land Management and the owner of the Copper Spur Ranch shall enter into a cooperative agreement regarding access routes across the ranch.

Section 2(d) would specify that if the values of the lands exchanged were not equal, they would be equalized by the payment of cash as provided in Section 206(b) of the Federal land Policy and Management Act without regard to the 25 percent limitation contained in that section.

Section 2(e) would specify that the exchange of lands shall be completed not later than 1 year after the date of enactment of this Act.

STATEMENT OF LARRY HENSON, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for the opportunity to offer our views on these bills.

S. 452, Ekberg-Copper Spur Land Exchange

The Department of Agriculture recommends S. 452 be enacted if amended.

S. 452 would authorize and direct the Secretary of Agriculture to exchange a portion of the Copper Spur Ranch administered by the Farmers Home Administration in Colorado for non-Federal lands within the boundaries of the Black Hills National Forest in South Dakota. In addition, the bill would require the Secretary to transfer the remainder of the Copper Spur Ranch to the Secretary of the Interior, to be administered by the Bureau of Land Management (BLM).

Approximately 720 acres of the Copper Spur Ranch would be conveyed to non-Federal ownership in exchange for approximately 427 acres, known as the Ekberg property, within the Black Hills National Forest. Acquisition of these lands would protect important wildlife habitat, facilitate administration of range resources, preserve critical riparian resources, eliminate property boundary location and maintenance costs, eliminate a threat of subdivision and development, and avoid the necessity to provide road access if the property is developed. The balance of the Copper Spur Ranch, approximately 840 acres, would be transferred to the administrative jurisdiction of the BLM.

A similar bill, S. 1945, was considered at the end of the 101st Congress. Since that time, an administrative transfer of jurisdiction, which occurred on February 14, 1991, has altered the potential configuration of the exchange. By authority of Section 354 of the Consolidated Farm and Rural Development Act, the Farmers Home Administration transferred administrative jurisdiction of 1,000 acres of the Copper Spur Ranch to the BLM. The transferred lands include all 840 acres proposed for transfer to the BLM in section 1 of S. 452. In addition 160 acres of the Copper Spur Ranch proposed for exchange to Mr. Ekberg in Section 2(a)(2) of S. 452 have been transferred to the jurisdiction of the BLM. Therefore, S. 452 should be modified to delete section 1, and section 2 should be modified to show that 560 acres of the Copper Spur Ranch may be conveyed to Mr. Ekberg in this exchange. Maps displaying the subject lands should be updated to show these changes.

This further modification would permit the Farmers Home Administration to dispose of a foreclosed property (the Copper Spur Ranch) in a manner of greatest benefit to the public. The irrigated lands of most utility to non-Federal interest would be returned to the private sector.

Forest Service land exchanges are normally accomplished administratively. However, none of the authorities available to the Secretary authorize exchanges involving more than one State.

Neither the Federal nor the non-Federal lands in this proposal have been appraised. Our informal estimates of value indicate that the value of the Ekberg lands will probably exceed that of the Federal lands by approximately 15 to 20 percent of the Federal land value, or by approximately $20,000. Funding for the cash equalization payment is available from existing Forest Service appropriations so long as the payment does not significantly exceed our expectations. Formal appraisals will be required to determine the final values and the exact amount of any cash equalization payment required.

The 12-month time limitation for completion of this transaction cited in Section 2(e) of S. 452 is unrealistic. We suggest this Section be modified to provide for extension of the 12-month time limitation by agreement between Mr. Ekberg and the Forest Service, to allow sufficient time for processing this exchange.

S. 452 would retain all existing public access easements across the Copper Spur Ranch held by the BLM. Some alternatives to these easements may be appropriate. If so, the Bureau currently has administrative authority to make these changes. S. 452 requires the Bureau to enter into a cooperative agreement with the non-Federal land exchange party to evaluate what changes might be appropriate. Thus, the development of any alternative routes will be at Mr. Ekberg's expense. It is now understanding that Mr. Ekberg agrees with this arrangement.

In summary, we believe that the exchange would serve the public interest and recommend that S. 452 be enacted if our recommended amendments are incorporated.

S. 1182, Fishlake National Forest Enlargement Act

The Department of Agriculture supports enactment of S. 1182 with a minor clarifying amendment.

S. 1182 would transfer jurisdiction of approximately 10,170 acres of public lands presently managed by the BLM to the Secretary of Agriculture. These lands would be added to and administered as part of the Fishlake National Forest in Utah. Existing land uses, such as grazing and off-highway vehicle use would not be affected by the change in jurisdiction.

Mr. Chairman, we believe these lands are logical additions to the Fishlake National Forest. Local administrators for both the Forest Service and the BLM have recognized the need for such a change in jurisdiction, and have identified such a transfer in their management plans.

The transfer will result in increased efficiency and more economical management. The Forest Service already manages some of the grazing use on these lands through a cooperative agreement with the BLM. Recreationists who

use the BLM lands also use the adjacent Forest Service lands and vice versa. Single agency management of all the public lands in the area would facilitate public information and services.

We recommend a minor change to the language in the bill to clarify the boundary of the Fishlake National Forest. This recommendation is presented in the form of an amendment in our supplemental statement. I request that the supplemental statement be included in the hearing record with my testimony.

In summary, we know of no objections to S. 1182, and we support its enactment.

S. 1183, City of Kaysville Land Restrictions

The Department of Agriculture would not oppose enactment of S. 1183 if amended.

S. 1183 would authorize the city of Kaysville, Utah to lease any of the lands granted to the city under the Act of June 8, 1926 for communication site purposes and for ingress and egress to said sites. The bill would also authorize the city to use these lands for recreation and other purposes not inconsistent with the protection of the watershed and the city's water-supply system.

The Act of June 8, 1926 (Public Law 69-354, 44 Stat. 707) granted approximately 1,440 acres of public lands to the city of Kaysville to protect the watershed of the city's water-supply system. The Act provided for reversion of title to the United States if the city attempts to use the granted lands for any purpose other than the specified municipal purpose of protecting the watershed furnishing water for the city.

During the 1930's the Forest Service began to acquire adjacent lands as part of the National Forest System, primarily for watershed protection. Watershed restoration measures, including the removal of grazing activities, have been conducted over approximately the past 30 years on these National Forest System lands in an effort to prevent downstream flooding. Although the city's water-supply system is no longer primarily dependent upon surface flows from the lands granted to the city, the city and the Forest Service still recognize the importance of continuing watershed protection for flood prevention on these lands. The Kaysville lands and the surrounding National Forest System lands are extremely steep and sensitive.

The Department recommends that S. 1183 be amended to reduce the restrictions on only the Kaysville lands being used for the communication site and those particular lands to be used for recreational development, which are not critical for watershed protection. These lands are outside the watershed in question. This would ensure that the remainder of the Kaysville lands, not needed for the communication site or for developed recreation, would continue to receive watershed protection as intended in the Act of June 8, 1926.

Since most of the granted lands are no longer as important to the city as a water-supply, we understand that the city is considering an alternative in which the lands not needed for the communication site or for recreation could be exchanged for National Forest System lands near an existing city park. This alternative, if implemented, would allow much of the originally granted lands to continue to be managed for watershed protection, as part of the National Forest System.

We are willing to work with the Committee staff and the city of Kaysville to discuss this and other alternatives, and draft the necessary amendments. In summary, the Department of Agriculture would not oppose enactment of this bill if amended.

S. 1185, Land Selections in Lieu of Forest Reserve Lands

The Department of Agriculture would not oppose enactment of S. 1185 if amended as we recommend.

S. 1185 is based in large measure on the companion bill, H.R. 1514, as amended by the House Interior and Insular Affairs Committee. In the intervening months, we have more fully examined H.R. 1514 and identified issues we feel must be addressed in this legislation.

We would like to resolve the status of the base lands affected by the Act of 1897 and subsequent acts for which "in lieu selections" were never completed. We estimate that title to approximately 18,000 acres of the National Forests would be affected by enactment of this bill. Of these lands, about 6,000 acres are occupied or actually used by persons claiming an equitable interest based on privity of title with the original grantor of the land to the United States under the 1897 Act and similar authorities. If so authorized by law, we would generally quitclaim the Federal interests in those lands to the title holder occupying or using the land.

The remaining 12,000 acres are lands where no one is in possession and no private uses are being made. Any private title claims to these lands have generally been derived from tax sales or similar mechanisms provided under State law which did not involve the Federal Government. These lands have generally been administered by the Forest Service as part of the national Forest, and we would intend that they continue to be so managed. Generally, the Forest Service has been unaware of any claimants under independent chains of title. The bill would provide a mechanism for compensation to persons claiming some title interest in these lands.

Congress has passed specific legislation since the early 1900's to provide a mechanism to compensate or provide relief to the original owners, heirs or assigns of these tracts and settle the ownership questions. The supplemental statement outlines the history of these lands.

With our support, the Congress has also legislated relief to private individuals caught up in these land title issues.

In about seven cases since 1960, legislation has been enacted to provide relief for persons who have occupied the lands, paid taxes over the years, and held clear succession of title.

We believe that enactment of legislation such as S. 1185 with some technical amendments will resolve title issues for the private citizens who have equitable claims to these lands. It would also minimize adverse effects on public resources and values by granting the concerned Secretary discretion to retain nationally significant lands and those needed to meet public, resource protection, or administrative needs.

We support the approach taken in the legislation in the preparation of a list identifying so called "in-lieu" lands and the expedited procedures for preparation of that list as outlined.

For all "in lieu" lands not conveyed to a qualified applicant, Congress may provide that compensation should be paid. The present wording of the bill merely refers the compensation issue to the Court of Claims but, in so doing, leaves various issues unresolved. The Committee might consider whether compensation for all claims should be calculated on the same basis or whether the date of the origination of title to lands as it relates to the Sisk Act should affect the compensation. Regardless, the present wording should be clarified to ensure that persons with in lieu lands wrongly excluded from the final list do not sit on their claims. If a court makes a final decision that a parcel of land was wrongly excluded, the time period for adding lands to the final list appears open ended. There should be a statutory time limitation, and adverse possession should not be allowed to be asserted against the United States nor should the United States be precluded from maintaining lawsuits against encroachments or other unauthorized possession.

In summary, the Department of Agriculture would not oppose enactment of this bill if amended. We are willing to work with the Committee staff immediately to draft the amendments.

I ask that the supplemental statement be made a part of the hearing record.

This concludes my prepared statement and I would be pleased to answer the Subcommittee's questions on all four bills.

SUPPLEMENTAL STATEMENT A—U.S. DEPARTMENT OF AGRICULTURE

Concerning S. 1182 to transfer certain public lands to the Forest Service

An amendment to S. 1182 to clarify the language in the bill to ensure that the Fishlake National Forest has a manageable boundary:

Section 3(c)(1): Insert the following words after the phrase "hereby modified:" "as indicated on the map referred to in subsection (b)".

SUPPLEMENTAL STATEMENT B—U.S. DEPARTMENT OF AGRICULTURE

*Concerning S. 1185, a bill to disclaim * * * all right, title, and interest of the United States in * * * certain lands * * * under the Act of June 4, 1897*

A Short History

The "in lieu selection" provision of the Organic Act of June 4, 1897 (30 Stat. 36), permitted the owners of lands within a Forest reservation to relinquish the tract to the United States and select "in lieu thereof" an equal acreage of public lands. The 1900 and 1901 amendments required that selections be confined to vacant, surveyed, and non-mineral public lands which are subject to homestead entry.

Many questionable practices arose in filing of relinquishments and making "in lieu selections" and in 1905, Congress enacted the Act of March 3, 1905 (33 Stat. 1264) which repealed the Forest Lieu Selection provisions of the 1897 Act. When the Act of March 3, 1905 was passed, however, it caught various tracts of land in all stages of reconveyance. The Act protected the rights involved in all lists of selections then on file in the (General Land Office), but made no provision for reconveyance for lands caught in the intermediate stages. As a result of the lieu selection provision, many tracts of land were relinquished to the United States. In most of these cases, patents to the land selected "in lieu thereof" were granted and the base lands relinquished to the United States. In regard to some of the lands relinquished to the Government, however, either the application for the lieu land was not filed, or the application was rejected, or for other reasons the lieu selection was not consummated.

It appears that one of the practices contributing to the unperfected lieu selection acreage was the activity of various speculators and real estate people who had purchased the rights of numerous settlers, had caused them to reconvey their lands to the United States, and filed the deed of reconveyance in the local County office of record. In a great many instances, however, the speculator or real estate dealer had failed to file his selection of lieu land before the repeal of the Forest Lieu Selection Act. When the Act was repealed many of the holders of the property or assigned rights purchased from the settlers, apparently considered that their interest in their property had been thus rendered valueless. In other words they had lost both their base lands and their right to select lieu lands. We surmise that they considered it useless to forward the deed and abstract of title to the Government, and at the same

time they were without legal title to the land themselves. Usually they did not care for the land relinquished to the United States at the time of conveyance, but were after the highly valued right to select an equal acreage of other more valuable public lands of the United States. This situation left record title to the base land in the United States by virtue of the relinquishment. However, the status of such base lands was left in doubt because the private parties had received no selected lieu tracts in return and had taken no action to claim the base lands as their privately owned property.

In 1922 and 1930, Acts (42 Stat. 1017; 46 Stat. 257) were passed which authorized reconveyance of these relinquished lands back to the former owners, their heirs, or assigns. Prior to 1922 there was no general authority for reconveyance of base lands where selections could not be consummated. Further, because of proven fraud by the grantors, in the acquisition of their base lands, a number of approved selections were canceled by the Federal Government. In order to alleviate this situation, disclaimers were issued in a number of cases. However, the effect of such a document, even when recorded, was frequently questioned. Because of the questionable effect of disclaimers and prior fraudulent activities, the Congress passed the Act of September 22, 1922. This Act allowed a period of 5 years for any person or persons or their heirs or assigns, who in good faith relinquished lands in a national forest under the 1897 Act and failed to get their "in lieu selection" recorded prior to the 1905 Act or whose selection had been rejected, to make application for a quitclaim deed reconveyance or if the land had been disposed of or appropriated for Federal purposes, the right to select an equal value exchange of National Forest land or timber. The statutory period of the 1922 Act ran in 1927.

No further reconveyances were made until the 1930 Act was passed. During the three year period between relief Acts, it was held that the right to make a selection or reconveyance was limited by statute and failure to make application within the time allowed terminated the rights thereunder. In the Peale case (1928), the Court held that failure to make timely lieu selection under the 1922 Act would cut off any further right of selection or reconveyance.

However, Section 6 of the 1930 Act provided authority to reconvey base land by quitclaim deed in any uncompleted land exchange case. The Department of the Interior held that this Act made it mandatory where a conveyance had been made to the United States under the 1897 Act, to issue a quitclaim deed to the party or parties entitled thereto.

From 1905 to 1960, the Department of the Interior and Agriculture and the Congress wrestled with resolving claims resulting from uncompleted lieu selections. The Forest Service instructed its employees to assume custody

and protection of the unclaimed "no-mans" base lands by administering them as National Forest lands until such time as title was confirmed in the United States or in the grantors, their heirs, or assigns as authorized by Congress.

Under these Acts, many parcels of land (approximately 46,000 acres) within the National Forests were returned to private ownership. Some of the parcels quitclaimed under the 1930 Act in the late 1950's were to third parties who had acquired the original grantors title interest. These lands had been protected and managed as Federal land for over 50 years. This threat to the National Forests and National Parks became a matter of public concern. The House Subcommittee on Public Lands held hearings on this matter in 1959.

At the hearings held in Fresno, California in 1959, it developed that certain persons had been making a practice of acquiring from the original land owner or from heirs or by other means quitclaim deeds or other forms of transfers. They considered the deeds into the United States nothing but a blur on the title. With assignment in hand and other intermediate steps (such as uncontested lawsuits, demands to be co-assessed and other similar actions not involving the United States), they would demand quitclaim deeds under the 1930 Act. From March 1954 to August 1959 reconveyances involving 14,500 acres had been made. The situation had reached what the public press, conservation interests and others regarded as being a virtual give-away of public resources approaching a scandal.

On July 6, 1960, Public Law 86-596 (74 Stat. 334), commonly called the Sisk Act, was passed.

The purpose of the Act of July 6, 1960 (74 Stat. 334) was to finally settle the numerous and complex situations involving lieu selection rights derived from the Act of June 4, 1897, and related rights from supplementary acts. The Act of July 6, 1960:

1. Granted persons who had conveyed lands to the United States as a basis for a lieu selection and had not received a lieu selection, a reconveyance, or other compensation as provided by a law, a right to receive payment upon demand made within one year from the date of the Act.

2. Repealed or made inapplicable provisions of prior laws that had authorized alternate means of settlement, and

3. Confirmed title in the United States to all of the lands that had been conveyed to it as a basis for a lieu selection, regardless of whether or not the proper persons made demand and received payment.

In some cases, relying upon an unauthorized disclaimer, or unaware of the cloud upon these tracts, private parties did not attempt to exercise their rights under various in-lieu selection laws. In any event, title to these tracts is confirmed in the United States by virtue of the Act of July 6, 1960.

Unfortunately, there are persons who have been in possession and occupying tracts of National Forest System lands for many years but were unaware that they were affected by the Act of July 6, 1960. Many of these parties have occupied these tracts in good faith and made significant improvements, under some form or color of title believing that they own the property. Other times, letter or instructions were issued that purported to disclaim any interest in these tracts on behalf of the United States.

In response to Congressional Directive located on pages 82–83 in the Senate Report No. 98–578, for the Fiscal Year 1985 Interior and Related Agencies Appropriation Congressional Directive, the Forest Service in coordination with the Bureau of Land Management developed a listing of lands within National Forest boundaries to be claimed by the United States under the Act of July 6, 1960. We also have identified those affected lands which, even though falling under the purview of the Sick Act, should in equity not continue to be claimed by the United States and will require legislative authority to reconvey title.

Generally we believe that the Secretary of Agriculture should have limited legislative authority to reconvey lands to the original grantors to resolve title issues in situations where equitable claims affect certain of these lands. We would also recommend that the Secretary of Agriculture should have legislative authority to retain lands that are nationally significant.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 452, as ordered reported.

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